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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/619,372

07/14/2003

Steven Manuel Nesbit

6798

7590

10/01/2004

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EXAMINER

DAVIS, OCTAVIA L

ART UNIT

PAPER NUMBER

2855

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/619,372	Applicant(s) NESBIT ET AL.	
	Examiner Octavia Davis	Art Unit 2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/14/03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 is directed to both of a system and a method, the system for evaluating and comparing golf club head designs and the method comprising the steps of creating a graphical model of a golf club head. It is not clear which invention this claim is referring to.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 - 7 are rejected under 102(b) as being anticipated by Naruo et al.

Regarding claims 1, 3 and 4, Naruo et al disclose an apparatus for selecting a shaft with an optimum flex for a golfer comprising an impact tester (See Col. 5, lines 1 – 6), a frame, a shaft 2 secured in a cantilevered manner to the frame, a golf club head mounting apparatus receiving a club head, deflection sensing means 20 emitting a voltage signal indicative of a sensed deflection, a processing unit 15 connected to the deflection sensing means to receive voltage signals and to

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calculate shaft deflection and acceleration sensing means 31 with a meter 33 sensing an acceleration of the shaft and the processing unit being connected to the acceleration sensing means (See Col. 5, lines 54 – 67).

Regarding claim 2, the frame includes a vertical tube by which an impacting object 3 can be aimed and guided to impart a magnitude and location variable impacting force on the club head (See Col. 4, lines 19 – 28).

Regarding claim 5, the processing unit 15 includes a triggering device 23 to initiate data collection for the deflection and acceleration sensing means (See Col. 5, lines 58 – 64).

Regarding claims 6 and 7, a monitor 14 is connected to the processing unit 15 (See Col. 4, lines 33 – 39).

Allowable Subject Matter

5. Claim 8 is allowed.

Conclusion


6. Any inquiry concerning this communication should be directed to examiner Octavia Davis at telephone number 571.272.2176.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Edward Lefkowitz, can be reached on 571.272.2180. The fax phone number for the organization where this application or proceeding is assigned is 703.872.9306.

ED

OD/2855

9/26/04


EDWARD LEFKOWITZ
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